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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/655,902	09/05/2003	Todd A. Jordan	1654-I	7658

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EXAMINER

RACHUBA, MAURINA T

ART UNIT PAPER NUMBER

3723

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SN

Office Action Summary	Application No.		Applicant(s)	
	10/655,902		JORDAN, TODD A.	
	Examiner		Art Unit	
	M Rachuba		3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 6-12 and 20-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 13-18 is/are rejected.
- 7) ☒ Claim(s) 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/5/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of species 2 in the reply filed on 23 November 2004 is acknowledged.
2. Claims 6-12 and 20-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 23 November 2004.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5, 13, 14, and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Biasoni, 2,923,107 in view of Burhoe 4,783,872. Please refer to '107 figures 1, 5 and 6, and especially column 2, lines 48 through column 3, lines 8. '107 discloses the claimed invention except for the support being a disk shape, ('107 discloses the support being a three-arm shape (figure 5)); the resurfacing devices being sandpaper; the resurfacing devices connected to the lower support with disks of interconnectable hook and loop fastener material or that the loop material is on the lower surface of the lower disk and the hook material is on the back of the resurfacing devices. '872, figures 3 and 4, in a similar device, teaches the resurfacing device being

sandpaper connected to the disk by hook and loop fastener material, the hook material being on either the support or the back of the sandpaper material, or the loop material being on either the support or the back of the sandpaper material. It would have been obvious to one of ordinary skill to have provided '107 with the resurfacing device being sandpaper connected to the disk by hook and loop fastener material, the hook material being on either the support or the back of the sandpaper material, or the loop material being on either the support or the back of the sandpaper material, as taught by '872, column 5, lines 38-60, to enable the resurfacing material to be quickly exchanged.

Regarding the shape of the support member, it would have been an obvious matter of design choice to make the different portions of the supporting member of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47. In this case, there is no criticality to the shape of the support, and one of ordinary skill would recognize that any shape having a flat surface to engage the floor being treated would function as well as a disk shape.

5. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Biasoni '107 in view of Burhoe, '872 as applied to claim 13 above, and further in view of Brennecke, 2,713,757. '107 as modified by '872 does not disclose that the lower disk comprises a semi-rigid, hard sponge. '757, in a similar device, figure 1, teaches providing a floor resurfacing device with a sponge backing disk. It is inherent that the sponge disk be semi-rigid and hard, to withstand normal operating conditions. It would have been obvious to one of ordinary skill to have provided '107 with the backing disk of

semi-rigid hard sponge as taught by '757, to allow greater flexibility than the spring supported backing disk as disclosed by '107.

Allowable Subject Matter

6. Claim 19 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter: claim 19 limits the lower ends of the mounting pins to include an annular groove adapted to receive an external retaining clip, and the lower ends of the grommets slotted to accommodate said retaining clips. '107, alone or as modified by '872 or '757, does not disclose or fairly teach using external clips placed within slots on the grommets, to hold the structures together. One of ordinary skill might consider the use of an external clip alone obvious, as a functional equivalent of the threaded end of the pins, but not also the grommets being slotted to accommodate the clips.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Other similar devices are cited of interest.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M Rachuba whose telephone number is **(571) 272-4493**. The examiner can normally be reached on Monday-Thursday from 8:30 AM to 3:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail, can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Rachuba
Primary Patent Examiner

Handwritten signature of M. Rachuba and the date 3/7/05.